

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JAMES ALLEN GREEN,

§

§

CIVIL ACTION NO. 6:18-CV-00643-RWS

Plaintiff,

§

§

v.

§

JOHNSON T. KESSINGTON, ET AL.,

§

§

Defendants.

§

ORDER

The above entitled and numbered civil action was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On April 8, 2019, the Magistrate Judge issued an Order to Amend (Docket No. 14), ordering that Plaintiff file an amended complaint addressing Plaintiff's failure to make "a short and plain statement showing that the pleader is entitled to relief." Docket No. 14 (citing FED. R. CIV. P. 8). On July 5, 2019, Plaintiff filed an amended complaint. Docket No. 24. On July 10, 2019, after determining that Plaintiff's amended complaint did not cure the deficiency in the original complaint, the Magistrate Judge issued a Report and Recommendation recommending that Plaintiff's complaint be dismissed with prejudice for failure to state a claim for which relief can be granted. Docket No. 26. On August 2, 2019, Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. Docket No. 27. The Court reviews *de novo* the portions of the Magistrate Judge's findings to which objections have been raised. 28 U.S.C. § 636 (b)(1).

As an initial matter, Plaintiff does not identify any specific portion of Judge Mitchell's Report to which he objects. Plaintiff merely provides a factual recitation of his allegations.

Frivolous, conclusory or general objections need not be considered by the District Court. *See Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc); *see also Valez-Pedro v. Thermo King De Puerto Rico, Inc.*, 465 F.3d 31, 32 (1st Cir. 2006) (explaining that an objecting party must put forth more than “[c]onclusory allegations that do not direct the reviewing court to the issues in controversy.”). Findings to which no specific objections are made do not require *de novo* review; the Court need only determine whether the report and recommendation is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Though it need not, the Court has conducted a careful *de novo* review of the record and the Magistrate Judge's proposed findings and recommendations. *See* 28 U.S.C. § 636(b)(1) (District Judge shall “make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). Upon such *de novo* review, the report of the United States Magistrate Judge is correct and Plaintiff's objections are without merit. Because Plaintiff has not pleaded facts that state a cognizable federal claim, the complaint should be dismissed. Therefore, it is

ORDERED that Plaintiff's objections (Docket No. 27) are **OVERRULED** and the findings and conclusions of the Magistrate Judge (Docket No. 26) are **ADOPTED** as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is hereby **DISMISSED WITH PREJUDICE** to their being asserted again until the *Heck v. Humphrey*, 512 U.S. 477 (1994), conditions are met.

So ORDERED and SIGNED this 29th day of October, 2019.

Robert W. Schroeder III
ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE